

D.F.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
DONALD J. CRANSTON, JR., et al.,
Plaintiffs,

- against -

DYNATECH INDUSTRIES, INC.,
Defendant.
-----X

DEFAULT JUDGMENT

03-CV-2713 (NGG) (CLP)

Garaufis, District Judge.

Plaintiffs Donald J. Cranston, et al., acting as Trustees and Fiduciaries of the Pavers and Road Builders District Council Welfare, Pension, Annuity and Apprenticeship, Skill Improvement and Training Funds, filed this action on May 30, 2003, against Defendant Dynatech Industries, Inc., ("Defendant") alleging violations of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001, et seq. Defendant failed to answer or otherwise move with respect to the complaint, and a default was entered against the Defendant on January 6, 2006, upon Plaintiff's motion. This court then directed Magistrate Judge Cheryl L. Pollak to conduct an inquest on damages.

On December 8, 2005, Magistrate Judge Pollak issued a Report and Recommendation ("R&R") recommending that this court grant Plaintiffs' request for an Order requiring Defendant to submit to an audit of its books and records. Magistrate Judge Pollak further recommended that Plaintiffs be awarded interest in the amount of \$2,290.98 for the period from October 1998 to May 2000; that additional amounts be awarded in delinquent contributions, interest, and liquidated damages for the period covered by the audit to be determined upon the completion of the audit; that Plaintiffs be awarded fees in the amount of \$1,875.00 and costs of \$190.00. The R&R also informed the parties that they may file objections within ten days, and that failure to do

so would waive any right to appeal the district court's order. No objections have been received from either party.

When no party objects to an R&R, "the district court can adopt the report without making a *de novo* determination." United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997). To accept a report and recommendation to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record for the factual and legal bases supporting the findings and conclusions of the decision. See Fed. R. Civ. P. 72 Advisory Committee Notes (citing Campbell v. United States District Court, 501 F.2d 196, 206 (9th Cir 1974)); Newman v. RCN Telecom Svces., Inc., 05-CV-4816, 2006 LEXIS 52314, at *2 (S.D.N.Y. July 27, 2006) (Marrero, J.).

Upon review of the R&R, this court finds no clear error and accordingly adopts the R&R in full. Default Judgment is entered and the clerk is directed to close the case.

SO ORDERED.

Dated: October 13, 2006
Brooklyn, New York

/signed/

NICHOLAS G. GARAUFIS
UNITED STATES DISTRICT JUDGE